IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

**HON'BLE SRI JUSTICE V.V.S. RAO**

W.P. No. 23862 OF 2005

Date: 16.11.2005

BETWEEN:

Mamillapalli Venkateswarlu

.... PETITIONER

And

1. The Village Secretary, Jaggampeta Panchayat, Jaggampeta Village and Mandal, East Godavari District, and another.

.... RESPONDENTS

**HONOURABLE SRI JUSTICE V.V.S. RAO**

**WRIT PETITION No. 23862 OF 2005**

**ORDER:**

The petitioner is a resident of Jaggampeta Gram Panchayat. He allegedly has a house site in S.No.258 with Door No.8-44. When the second respondent Gram Panchayat initiated construction of drainage canal in front of the petitioner's house, he approached this Court alleging that the Gram Panchayat is going to construct drainage canal through his land without due process of law and without initiating any proceedings under the Land Acquisition Act, 1894. It is also alleged that the petitioner was not given any notice as contemplated under Section 98 of the A.P. Panchayat Raj Act, 1994 (for short 'the Act').

When the matter came up before this Court for preliminary hearing, the learned Standing Counsel for Panchayats, Sri M. Prabhakar Rao sought time for getting instructions in the matter. Today, the first respondent filed counter affidavit denying various allegations made in the affidavit accompanying the writ petition. The allegation that the Gram Panchayat

encroached or utilized a piece of land belonging to the petitioner, is categorically denied. It is further stated as under.

> It is a fact that the petitioner has applied for construction of residential in an area of 104-51 sq. mts situated at Jaggampet village. It is also a fact that permission was granted for construction of dwelling house with compound wall. The petitioner has constructed the house and compound wall around his entire site abutting the road margin without leaving any space in between the road and his house site. He has laid a small ramp from his compound wall on the road margin belonging to the Gram Panchayat. It is also a fact that a drain canal was constructed on the side of the road within the space of the public road. The Gram Panchayat has not laid any drain canal in the house site belongs to the petitioner. In fact, the writ petitioner himself has constructed the compound wall just adjacent to the road margin and laid a ramp by occupying the road margin. However, while constructing the drain canal, the ramp was removed and drain was constructed.

In view of the submissions in the counter affidavit filed by the first respondent, the apprehension of the petitioner that the Gram Panchayat is likely to construct drainage canal through the petitioner's land, is not correct. Further, if the Gram Panchayat requires any land of the petitioner, it shall be open to them to proceed in accordance with Section 59 of the Act. The Writ Petition, with the above observations and directions, is accordingly disposed of at the admission stage.

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(**V.V.S. RAO, J.)**

16th November, 2005

Js.